

EXECUTIVE OFFICE, STATE OF TEXAS,

AUSTIN, May 2, 1874.²⁷

To the Honorable Senate of the State of Texas:

Gentlemen—I return herewith without my approval Senate Bill No. 250, being “An act to regulate public roads in the State of Texas,” and respectfully ask that it be reconsidered.

My objections to the bill are confined to section six. This section makes it the duty of the county courts, when any person by himself or attorney represents that a road commonly traveled by him to church, school house, mill, or county site has been or is about to be closed, to cause the sheriff and three citizens to be summoned for the purpose to go and open the road and establish its line, width, etc., classify the road, and make report to the next term of the county court. I respectfully submit that this section, if passed, would authorize most palpable invasions of rights of property. It would authorize land of parties, taken without compensation, and appropriated to the public use, in violation of the Constitution. The section complained of authorizes the compulsory opening of roads through the land of citizens, on complaint of any person who has commonly traveled to either of the points named over it, whether it was a public road or whether he traveled it by permission of the owner, or was a trespasser when going over it, it makes no difference, nor does it make any difference whether any other person than the complainant ever traveled it nor does the bill say how long he shall have traveled it—one day, one week, or one month; it simply gives him an absolute right to have road opened, whatever the land may be worth or the damage that may accrue to the owner, without judge or jury, and makes no provision whatever for compensation to the owner for his land or for the damage he may suffer.

If this bill becomes a law, there is not a tract of land in the State that may not, on the application of some person who, with or without permission of the owner, has “commonly traveled” over it, once in one, two, three or four weeks, to mill or church or the county site, when it was traveled by nobody else, have a road made through it, and that as a matter of right by the summary action of the sheriff and three citizens, without even giving notice of the proceeding to the owner, for the bill does not require notice to him. It is respectfully submitted that no man's rights of property should be dealt with, except upon due notice to him, and by due course of law, and that no law should be enacted looking to an appropriation of private property to public uses, without, at the same, making ample provision for just com-

²⁷*Senate Journal*, 563-64.

pensation, and that this bill is manifestly violative of both of these elementary principles.

Very respectfully,

RICHARD COKE.